

REMARKS

Claims 26-50 were pending when the Office Action was mailed. The Office Action rejected all claims. Applicant has canceled claim 50, but has not amended or added any claims. Accordingly, claims 26-49 are now pending.

The Office Action rejected claims 26-50 under 35 U.S.C. § 102(e) over U.S. Patent No. 6,091,956 ("Hollenberg"). Hollenberg is directed to a "Situation Information System" (Title) for providing "time-critical information about places and events to mobile computers and their users proximate to their current locations or potential destinations." (Hollenberg, abstract.)

The Office Action relies upon the following passages from Hollenberg to reject independent claims: 8:6-25, 8:32-60, 13:1-45, and 16:9-47; and Figures 2, 4, and 6. Hollenberg at 8:6-25 describes providing traffic congestion information to motorists and others. At 8:32-60, Hollenberg describes providing mileages and other data pertaining to geographical features, services, and attractions. At 13:1-8, Hollenberg describes transmitting the user's location coordinates to the user's device. At 13:9-20, Hollenberg describes providing information to a mobile device based on that mobile device's location. At 13:21-45, Hollenberg describes providing information on a mobile device when the mobile device "approaches within a selectable distance of [a] proximate information station." (Hollenberg, 13:31-32.) At 16:9-47, Hollenberg describes (1) providing information based on the location of the mobile device and (2) providing location-based information in response to a query. Figures 2, 4, and 6 illustrate various maps.

Applicant's prior response argued that Hollenberg does not teach "select information specific to an exhibit in the premise if the mobile computing device remains near the exhibit for a specified duration of time" as claims 26-30 recite. According to the Office Action (page 2), Hollenberg teaches this feature because it discusses "a banner that appears when the user is in proximate (sic), providing a short term offer for

merchandise and the duration of time is inherent in the prior art's modes of pedestrian mode and vehicle mode and that ads appear in pedestrian mode and not in vehicle mode." (Office Action, page 2.) The Office Action is incorrect and has not provided rationale or evidence tending to show inherency. "The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." (MPEP § 2112(IV).) To be inherent, it is necessary that Hollenberg operates in the claimed manner. However, not only can Hollenberg operate in a different manner, it does. Hollenberg merely describes providing proximate information. Proximate means nearby. However, a mobile computing device can be proximate (nearby) an object for some defined period of time whether the mobile computing device is stationary, moving toward the object, moving parallel to the object, or moving away from the object. For example, Hollenberg's technique can display a banner when the mobile device "approaches within a selectable distance of proximate information station 3a." (Hollenberg, 13:30-31; emphasis added.) However, applicant's claim recites "remains near the exhibit for a specified duration of time." (Emphasis added.) Because this feature is not necessary for Hollenberg's technique to function as Hollenberg describes, it is not inherent in Hollenberg. Accordingly, claims 26-30 patentably define over Hollenberg.

Claims 31-37 recite "a determination that the mobile computing device has remained near an item corresponding to the position-related information for a specified duration of time." According to the Office Action, Hollenberg teaches this feature at 13:1-45, 16:9-47 and Figures 2, 4, and 6. However, as previously described, Hollenberg does not teach the claimed features at any of the cited passages or figures. Accordingly, claims 31-37 patentably define over Hollenberg.

Claims 38-41 recite "a determination that the mobile computing device has remained near an item corresponding to the position-related information for a specified duration of time." According to the Office Action, Hollenberg teaches this feature at 13:1-45, 16:9-47 and Figures 2, 4, and 6. However, as previously described,

Hollenberg does not teach the claimed features at any of the cited passages or figures. Accordingly, claims 38-41 patentably define over Hollenberg.

Claims 42-49 recite "different information is selected and delivered to the mobile computing device based on whether the mobile computing device is determined to be stationary or moving." According to the Office Action, Hollenberg teaches this feature at 8:6-25, 13:1-45, 16:9-47, and Figures 2, 4, and 6. (Office Action, Page 9.) As previously explained, nothing in the identified passages or figures teaches or suggests "different information is selected and delivered" to the mobile computing device based on whether the mobile computing device is determined to be stationary or moving" as recited. (Emphasis added.) According to the Office Action, applicant's argument is unpersuasive because the specification "provides the same level of determination" as Hollenberg. (Office Action, page 2.) However, applicant's specification describes that interest can be determined based on whether a user is stationary. (See applicant's specification, page 3, last paragraph.) The Office Action points to no teaching or suggestion in Hollenberg for this feature. Accordingly, claims 42-49 patentably define over Hollenberg.

Without conceding the merits of the rejection, applicant cancels claim 50 without prejudice to pursuing that claim in a related patent application.

Although applicant has addressed some rejections but not others, applicant does not concede the rejections not addressed and reserves its rights to respond to them in the future.

Based on these amendments and remarks, applicants respectfully request early allowance of this application. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-6478.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 320528065US2 from which the undersigned is authorized to draw.

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Respectfully submitted,

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Attachments